LOS ANGELES WATERKEEPER®

April 26, 2016

VIA CERTIFIED MAIL

Davis Wire Corporation
Attn: Managing Agent
5555 Irwindale Avenue
Irwindale, California 91706

CT Corporation System
Registered Agent for Service of Process for
Davis Wire Corporation
818 West Seventh Street, Suite 930
Los Angeles, California 90017

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of Los Angeles Waterkeeper ("Waterkeeper") regarding violations of the Clean Water Act[1] and California's Industrial Storm Water Permit[2] ("Storm Water Permit") occurring at the industrial facility with its main address at: 5555 Irwindale in Irwindale, California 91706 ("Facility"). The purpose of this letter is to put Davis Wire Corporation ("Davis Wire"), as the owner and/or operator of the Facility, on notice of the violations of the Storm Water Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water from the Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, Davis Wire is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. The Clean Water Act requires that notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ, as amended by Order No. 2014-0057-DWQ. Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Waterkeeper refers to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2014-0057-DWQ the Storm Water Permit was reissued. For purposes of this Notice Letter, Waterkeeper refers to this reissuance of the Storm Water Permit as the "2015 Permit."

occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

This letter is being sent to you as the responsible owner and operator of the Facility, or as the registered agent for this entity. This notice letter ("Notice Letter") is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform Davis Wire that Waterkeeper intends to file a federal enforcement action against Davis Wire for violations of the Storm Water Permit and the Clean Water Act sixty (60) days from the date of this Notice Letter.

I. BACKGROUND

A. Los Angeles Waterkeeper.

Los Angeles Waterkeeper is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, California 90401. Founded in 1993, Waterkeeper has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the preservation, protection, and defense of the rivers, creeks and coastal waters of Los Angeles County from all sources of pollution and degradation. To further this mission, Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper reside in Los Angeles County, and near the San Gabriel River (hereinafter "Receiving Water"). As explained in detail below, Davis Wire continuously discharges pollutants into the San Gabriel River, in violation of the Clean Water Act and the Storm Water Permit. Waterkeeper members use the Receiving Water to swim, boat, kayak, bird watch, view wildlife, hike, bike, walk, and run. Additionally, Waterkeeper members use the waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The unlawful discharge of pollutants from the Facility into the Receiving Water impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by Davis Wire's failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Owner and Operator of the Facility.

Information available to Waterkeeper indicates that Davis Wire Corporation is the owner and operator of the Facility. Davis Wire Corporation is an active California corporation and its registered agent is: CT Corporation System located at 818 West Seventh Street, Suite 930 in Los Angeles, California 90017.

C. The Facility's Storm Water Permit Coverage.

Facilities that discharge storm water associated with specified industrial activities are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water

Permit coverage.

Information available to Waterkeeper indicates that the Davis Wire Facility has been covered under the Storm Water Permit since at least 2009. On February 13, 2015, Davis Wire submitted an NOI to continue the Facility's coverage under the reissued Storm Water Permit ("2015 NOI"). Davis Wire also submitted a Storm Water Pollution Prevention Plan ("SWPPP") dated "August 2013, Revised: February 6, 2014,"[3] and was signed by Joe Barrett, vice-president and general manager, on September 4, 2013 (hereinafter referred to as "2014 SWPPP"). The 2015 NOI identifies the owner of the Facility as "Davis Wire Corp" and the Facility name and location as "Davis Wire Corp, 5555 Irwindale Avenue, Irwindale, 91706." The 2015 NOI lists the Facility as "35 acres." The 2015 NOI does not list the industrial area exposed to storm water or the percentage of the site that is impervious. The 2015 NOI lists the Waste Discharge Identification ("WDID") number for the Facility as 4 19I010894. The 2015 NOI identifies the Standard Industrial Classification ("SIC") code for the Facility as 3315 (Steel Wiredrawing and Steel Nails and Spikes). The 2015 NOI lists the "Receiving Water" as the Upper San Gabriel River.

D. <u>Storm Water Pollution.</u>

With every significant rainfall event millions of gallons of polluted storm water originating from industrial operations such as the Facility pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, these waters are still essential habitat for dozens of fish and bird species as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special aesthetic and recreational significance that surface waters have for people in local communities. The public's use of local waterways exposes many people to toxic metals and other contaminants in storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to local waterways.

Based on EPA's Industrial Storm Water Fact Sheet for Sector F: Primary Metals Facilities, polluted discharges from industrial activities like those conducted at the Facility contain pH affecting substances; metals, such as iron and aluminum; toxic metals, such as lead, zinc, cadmium, chromium, copper, arsenic, cyanide, and mercury; toxic organic pollutants; chemical oxygen demand ("COD"); biological oxygen demand ("BOD"); total suspended solids

[3] The SWPPP's Revision Log lists a June 6, 2015 date as the most recent "Date of Review and/or Revision," but does not have a corresponding signature. *See* 2014 SWPPP.

("TSS")[4]; benzene, fuel additives, gasoline, oil and grease ("O&G"), antifreeze and diesel fuels; coolants and solvents, and; trash and debris. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm. Discharges of polluted storm water to the San Gabriel River watershed pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

II. THE FACILITY AND ASSOCIATED DISCHARGES OF POLLUTANTS

A. The Facility Site Description and Industrial Activities.

The Facility is located at 5555 Irwindale Avenue in Irwindale, California, which is near the Gladstone Street and North Irwindale Avenue intersection. Information available to Waterkeeper indicates that the Facility is approximately 35 acres in size and operates 24 hours a day, seven days a week, and is engaged primarily in drawing wire from purchased iron or steel rods, bars, or wire for the further manufacture of products made from wire. *See* 2014 SWPPP, § 2.1. Information available to Waterkeeper indicates that the Facility is 55% impervious surface and that the remainder is unpaved dirt and aggregate. *See id.* at § 4.3.2.8.

Based on Waterkeeper's review of publicly available documents, including the 2014 SWPPP, carbon steel welded, specialty wire products, and galvanized wire products are manufactured at the Facility. Raw material coils are descaled and then sent to wire drawing and sold to customers, or continue into the fabric or galvanizing department. The industrial processes that occur at the Facility, all of which are pollutant sources, include wire drawing, rod cleaning and surface coating, wire descaling, galvanizing, wire spooling and packaging, welding, recycling of scrap metal, product and raw material storage, and vehicle and equipment maintenance. Additional pollutant sources at the Facility include the air compressor area, the cooling towers, the baghouse dust collection system, storage areas, loading and unloading areas, machinery and equipment maintenance and storage areas, oil and hazardous waste storage areas, dust and particulate generating activities, and areas of soil erosion. These activities are all significant pollutant sources at the Facility.

B. Facility Pollutants and BMPs.

The pollutants associated with operations at the Facility include, but are not limited to:

---

[4] High concentrations of TSS degrade optical water quality by reducing water clarity and decreasing light available to support photosynthesis. TSS has been shown to alter predator prey relationships (for example, turbid water may make it difficult for fish to hunt prey). Deposited solids alter fish habitat, aquatic plants, and benthic organisms. TSS can also be harmful to aquatic life because numerous pollutants, including metals and polycyclic aromatic hydrocarbons, are absorbed onto TSS. Thus, higher concentrations of TSS results in higher concentrations of toxins associated with those sediments. Inorganic sediments, including settleable matter and suspended solids, have been shown to negatively impact species richness, diversity, and total biomass of filter feeding aquatic organisms on bottom surfaces.

pH-affecting substances; metals, such as iron and aluminum; toxic metals, such as lead, zinc, cadmium, chromium, copper, arsenic, and mercury; COD; BOD; TSS; benzene; gasoline and diesel fuels; fuel additives; coolants; antifreeze; TKN; O&G; sawdust, wood chips, trash and debris; black paper, soap dust, asphalt, and other "various chemicals." *See e.g.* 2014 SWPPP, Table 4-2.

Information available to Waterkeeper indicates Davis Wire has not properly developed and/or implemented the required best management practices ("BMPs") to address pollutant sources and contaminated discharges. BMPs are necessary at the Facility to prevent the exposure of pollutants to precipitation and the subsequent discharge of polluted storm water from the Facility. Due to the lack of BMPs and/or the inadequacy of the BMPs that are utilized at the Facility, industrial activities and pollutants are exposed to precipitation during rain events, and this polluted storm water enters the storm drain system, which flows into the Receiving Water. For example, Davis Wire lists only 4 "structural" BMPs, one of which is to store materials on pallets. *See* 2014 SWPPP, § 4.3.3. However, this BMP does nothing to prevent exposure to precipitation, and pallets can be sources of pollutants as well. Thus, not only does Davis Wire fail to list adequate BMPs but an identified BMP is a potential source of additional pollutants.

In addition, the BMPs listed for the numerous toxic pollutants used at the Facility include only general good housekeeping measures such as inspections and sweeping. *See* 2014 SWPPP, Table 4-2. Davis Wire's reliance that hazardous waste are "well organized," and that BMPs are "kept in good condition" to prevent storm water pollution is misplaced and these are ineffective BMPs that do not comply with the Storm Water Permit. Despite these minimal BMPs, especially given the 35-acre parcel where toxic chemicals are used on an ongoing and daily basis, and the sampling data demonstrating pollutants are in discharges, Davis Wire claims that additional actions and BMPs are not required.

Moreover, there are activities at the Facility with no corresponding BMP listed. For example, Davis Wire states that it uses a water truck on a daily basis for dust suppression but has no BMPs listed to prevent this non-stormwater from discharging from the Facility. *See* 2014 SWPPP, § 4.3.2.8. Davis Wire's failure to develop, implement and/or maintain BMPs to reduce pollutant levels in storm water discharges is a violation of the Storm Water Permit.

Finally, the 2015 Permit establishes numeric action levels ("NALs"). 2015 Permit, Fact Sheet at 55-60. An exceedance of an NAL requires dischargers to implement improved BMPs and revise the facility SWPPP. 2015 Permit, Section XII. The sampling results from discharges from the Davis Wire exceed the NALs for aluminum, zinc, and iron. These exceedences are further evidence demonstrating that Davis Wire has and continues to fail to develop, implement and/or maintain BMPs to reduce pollutant levels in storm water discharges as required by the Storm Water Permit, and that Davis Wire has not developed or implemented, or revised, a SWPPP as required by the Storm Water Permit.

C. Facility Storm Water Flows and Discharge Locations.

The Facility discharges drain to Reach 3 of the San Gabriel River, which runs from Ramona Boulevard to the Whittier Narrows, then into Reach 2 of the River (Firestone to Whittier Narrows Dam) then Reach 1 below Firestone, into the San Gabriel River Estuary, and then the Pacific Ocean. The San Gabriel Watershed is the second largest watershed in Los Angeles County and is an ecologically sensitive area.

The Regional Board issued the *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura County* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of the Receiving Water that receives polluted storm water discharges from the Facility. These Beneficial Uses include: warm freshwater habitat ("WARM"), ground water recharge ("GWR"), and wildlife habitat ("WILD"), water contact recreation ("REC 1"), and non-contact water recreation ("REC 2"). *See* Basin Plan, Table 2-1. According to the 2010 303(d) List of Impaired Water Bodies, Reach 3 of the San Gabriel River is listed as impaired for pathogens.[5] Polluted discharges from the Facility cause and/or contribute to the degradation of this already impaired surface water and aquatic dependent wildlife. For the aquatic ecosystem to regain its health, contaminated storm water discharges, including those from the Facility, must be eliminated.

In the Storm Water Permit Annual Reports submitted by Davis Wire, only one (1) discharge point is identified for sampling of storm water discharged from the Facility. The 2014 SWPPPP states that "[s]tormwater discharge samples will be collected at the southwest corner of the site at the point where the railway spur enters the facility." 2014 SWPPP, § 6.4.1. The SWPPP clarifies that "[s]tormwater runoff from the **industrial activity areas** of the site discharge into a shallow ditch along the railroad spur." *Id.* at § 2.1 (emphasis added). Information available to Waterkeeper indicates that there are additional points of storm water discharges associated with industrial activity from which Davis Wire is not but should be sampling. These points include, but are not limited to, entrance and egress points at the Facility.

Davis Wire also reports that the facility has a berm that runs along the perimeter fence in the southwest and northwest corners of the Facility and that storm water from "small" events can be retained on site and infiltrated. *See* 2014 SWPPP, § 4.3.2.8. However, no information about the sizing of this informal "retention basin" is provided. Further, there is no discussion regarding the potential or real impact to groundwater. Based on information available to Waterkeeper, the detention basin does not contain all storm water at the Facility, and storm water polluted by the industrial activities at the Facility discharges to the Receiving Water.

---

[5] 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml (last accessed on February 20, 2015).

III. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Waterkeeper refers to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2015-0057-DWQ the Storm Water Permit was reissued. For purposes of this Notice Letter, Waterkeeper refers to the reissued permit as the "2015 Permit." The 2015 Permit superseded the 1997 Permit, except for enforcement purposes, and its terms are as stringent, or more stringent, than the terms of the 1997 Permit. *See* 2015 Permit, Findings, ¶ 6. Accordingly, Davis Wire is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) ("Limitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

A. Discharges of Polluted Storm Water in Violation of the Storm Water Permit's Requirement to Develop and Implement BMPs That Achieve BAT/BCT.

Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic[6] and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants.[7] The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V.A.

As discussed above, information available to Waterkeeper indicates that BMPs that achieve BAT/BCT have not been developed and/or implemented at the Facility. The analytical results of storm water sampling at the Facility demonstrates that Davis Wire has failed and continues to fail to develop and/or implement BMPs that achieve BAT/BCT. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the 1997 Permit

[6] Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

[7] Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biochemical oxygen demand, TSS, oil and grease, pH, and fecal coliform.

and Effluent Limitation V.A. of the 2015 Permit.[8] For example, samples collected by Davis Wire document that storm water containing levels of aluminum, iron and zinc well above EPA's Benchmark Levels is consistently discharged from the Facility. *See* Exhibit 1 attached hereto which sets out a table with the results of sampling at the Facility conducted by Davis Wire compared to EPA Benchmark Levels. Information available to Waterkeeper including the repeated and significant exceedances of EPA Benchmarks demonstrates that Davis Wire has failed and continues to fail to develop and/or implement BMPs at the Facility to achieve compliance with the BAT/BCT standards.

Waterkeeper puts Davis Wire on notice that the Storm Water Permit Effluent Limitations are violated each time storm water discharges from the Facility. *See, e.g.*, Exhibit 2 (setting forth dates of significant rain events).[9] These discharge violations are ongoing and will continue every time Davis Wire discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the dates of violations when additional information and data become available. Each time Davis Wire discharges polluted storm water in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V.A. of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Davis Wire is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2011.

Further, Waterkeeper puts Davis Wire on notice that 2015 Permit Effluent Limitation V.A. is a separate, independent requirement with which Davis Wire must comply, and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V.A. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent technology based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT.[10] And even if Davis Wire submits an Exceedance Response Action Plan(s) pursuant to Section XII of the 2015 Permit, the violations of Effluent Limitation V.A. described in this Notice Letter are ongoing.

---

[8] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009 ("Multi-Sector Permit"), Fact Sheet at 106; *see also*, 65 Federal Register 64839 (2000).

[9] Dates of significant rain events are measured at the Santa Fe Dam Rain Gauge. A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in discharges at a typical industrial facility.

[10] "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII.

B. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Receiving Water Limitations.

Receiving Water Limitation C(2) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[11] The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI.A. Discharges that contain pollutants in excess of an applicable WQS violate the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI.A.

Receiving Water Limitation C(1) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI.B. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit's Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI.B.

Storm water sampling at the Facility demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS. *See* Exhibit 1, table of sampling data compared to WQSs. Although Davis Wire fails to analyze its samples for all pollutants associated with its industrial activity, storm water samples for pollutants it does sample for are in excess of applicable WQS. These exceedances of WQS demonstrate that Davis Wire has violated and continues to violate the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI.A.

Discharges of elevated concentrations of pollutants in the storm water from the Facility adversely impact human health. These harmful discharges from the Facility are violations of the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI.B.

Waterkeeper puts Davis Wire on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See, e.g.*, Exhibit 1. These discharge violations are ongoing and will continue every time contaminated

---

[11] The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the 1997 Permit, Receiving Water Limitation VI.A. of the 2015 Permit VI.A, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the 1997 Permit, Receiving Water Limitation VI.B. of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Waterkeeper will update the dates of violation when additional information and data becomes available. Davis Wire is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2011.

Further, Waterkeeper puts Davis Wire on notice that 2015 Permit Receiving Water Limitations are separate, independent requirements with which Davis Wire must comply, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a water quality standard.[12] And even if Davis Wire submits an Exceedance Response Action Plan(s) pursuant to Section XII of the 2015 Permit, the violations of the Receiving Water Limitations described in this Notice Letter are ongoing.

C. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.

The Storm Water Permit requires permittees to develop and implement a Storm Water Pollution Prevention Plan prior to conducting, and in order to continue, industrial activities. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

1. 1997 SWPPP Requirements.

Section A(1) and Provision E(2) of the 1997 Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objectives of the 1997 Permit SWPPP requirement are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 1997 Permit, Section A(2). These BMPs must achieve

[12] "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII.

compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9) of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A(9) and (10). Sections A(3) – A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (*see* 1997 Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* 1997 Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-storm water discharges and their sources, and locations where soil erosion may occur (*see* 1997 Permit, Section A(6)).

Sections A(7) and A(8) of the 1997 Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

2. <u>2015 SWPPP Requirements.</u>

As with the SWPPP requirements of the 1997 Permit, Sections X(A) - (H) of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 2015 Permit, Section X(C).

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, associated points of discharge, direction of flow, identification of areas of soil erosion and impervious areas, areas of actual and potential pollutant contact, including the extent of pollution-generating activities, nearby water bodies, and pollutants control measures. *See* 2015 Permit, Section X(A)-(H). The SWPPP must also contain a description of the BMPs developed and implemented to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges necessary to comply with the Storm Water Permit; the identification and elimination of non-storm water discharges; the location where significant materials are being shipped, stored, received, and handled, as well as the typical quantities of such materials and the frequency with which they are handled; a description of dust and particulate-generating activities, and; the

identification of individuals and their current responsibilities for developing and implementing the SWPPP. *Id.*

Further, the 2015 Permit requires the discharger to evaluate the SWPPP on an annual basis and revise it as necessary to ensure compliance with the Storm Water Permit. 2015 Permit, Section X(A)-(B). Like the 1997 Permit, the 2015 Permit also requires that the discharger conduct an annual comprehensive site compliance evaluation that includes a review of all visual observation records, inspection reports and sampling and analysis results, a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system, a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed, and a visual inspection of equipment needed to implement the SWPPP. 2015 Permit, Section X(B) and Section XV.

3. Davis Wire Has Violated and Continues to Violate the Storm Water Permit's SWPPP Requirements.

Information available to Waterkeeper indicates that Davis Wire has been and continues to conduct operations at the Facility with an inadequately developed and/or implemented SWPPP. For example, in violation of Section A(4) of the 1997 Permit and Section X(E)(3) of the 2015 Permit, the site map fails to, among other things, identify all areas of industrial activity, all discharge locations., and all areas of soil erosion.

Further, the SWPPP also fails to include an adequate assessment of potential pollutant sources or BMPs that achieve the BAT/BCT standards, as required by Section A(6) of the 1997 Permit and Sections X(G) and X(H) of the 2015 Permit. The Davis Wire SWPPP also fails to identify all pollutants used at the Facility by simply noting "metal shavings," "other residue," "leaks and spills," and "various chemicals" as the facility's potential pollutants. *See* 2014 SWPPP, Table 4-2.

Information available to Waterkeeper indicates that Davis Wire also fails to address all areas of industrial activity and/or all areas of pollutant sources and corresponding pollutants by excluding some areas at the facility from storm water management and BMP development. To the extent there are areas of the Facility where industrial activities, in fact, do not occur, Davis Wire has failed to comply with the certification requirements set out at Section XVII(E)(1) of the 2015 Permit that would allow Davis Wire to exclude certain areas from its storm water management program. Finally, Davis Wire has not adequately revised the Facility SWPPP, as required by Section A(7) of the 1997 Permit and Section X(D)(2)(a) of the 2015 Permit.

Davis Wire has failed and continues to fail to adequately develop, implement, and/or revise a SWPPP, in violation of SWPPP requirements of the Storm Water Permit. Every day the Facility operates with an inadequately developed, implemented, and/or properly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. Davis Wire has been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least April 26, 2011. These violations are ongoing, and Waterkeeper will

include additional violations when information becomes available. Davis Wire is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2011.

D. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.

The Storm Water Permit requires permittees to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting, and in order to continue, industrial activities. The specific M&RP requirements of the 1997 Permit and the 2015 Permit are set out below.

1. 1997 Permit Requirements.

Section B(1) and Provision E(3) of the 1997 Permit require facility operators to develop and implement an adequate M&RP by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 1997 Permit, Section B(2).

The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.* Sections B(3) – B(16) of the 1997 Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the Wet Season. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *See* 1997 Permit, Sections B(3) and B(4). Dischargers must revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4). Sections B(5) and B(7) of the 1997 Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged.

Section B(7)(d) of the 1997 Permit allows for the reduction of sampling locations in very limited circumstances when "industrial activities and BMPs within two or more drainage areas are substantially identical." If a discharger seeks to reduce sampling locations, the "[f]acility operators must document such a determination in the annual report." *Id.*

2. 2015 Permit Requirements.

As with the 1997 M&RP requirements, Sections X(I) and XI(A)-XI(D) of the 2015 Permit require facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 2015 Permit, Section XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.*

An *increase* in observation frequency from the 1997 Permit, Section XI(A) of the 2015 Permit requires all visual observations at least once each month, and at the same time sampling occurs at a discharge location. Observations must document the presence of any floating and suspended material, O&G, discolorations, turbidity, odor and the source of any pollutants. 2015 Permit, Section XI(A)(2). Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges. 2015 Permit, Section XI(A)(3).

Section XI(B)(1-5) of the 2015 Permit requires permittees to collect storm water discharge samples from a qualifying storm event[13] as follows: 1) from each discharge location, 2) from two storm events within the first half of each reporting year[14] (July 1 to December 31), 3) from two storm events within the second half of each reporting year (January 1 to June 30), and 4) within four hours of the start of a discharge, or the start of facility operations if the qualifying storm event occurs within the previous 12-hour period. Section XI(B)(11) of the 2015 Permit, among other requirements, provides that permittees must submit all sampling and analytical results for all samples via SMARTS within 30 days of obtaining results for each sampling event.

The parameters to be analyzed are also consistent with the 1997 Permit. Specifically, Section XI(B)(6)(a)-(b) of the 2015 Permit requires permitees to analyze samples for TSS, oil & grease, and pH. Section XI(B)(6)(c) of the 2015 Permit requires permitees to analyze samples for pollutants associated with all industrial operations. Section XI(B)(6)(d) requires additional parameter analysis based on a facility's SIC code. Finally, Section XI(B)(6) of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with 303(d) listed impairments, or approved Total Maximum Daily Loads.

---

[13] The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).

[14] A reporting year is defined as July 1 through June 30. 2015 Permit, Findings, ¶ 62(b).

3. Davis Wire Has Violated and Continue to Violate the Storm Water Permit M&RP Requirements.

Davis Wire has been and continues to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. For example, Davis Wire has failed and continues to fail to conduct all required quarterly and/or monthly visual observations of unauthorized discharges. *See* 1997 Permit, Section B(3); *see also* 2015 Permit, Section XI(A)(1). Additionally, Davis Wire has failed to provide the records required by the Storm Water Permit for the monthly visual observations of storm water discharges in violation of Section B(4) of the 1997 Permit and Section XI(A)(3) of the 2015 Permit.

Davis Wire also fails to collect and analyze storm water samples as required by the Storm Water Permit. For example, for the past five (5) years Davis Wire has failed to collect storm water samples as required, in violation of the Storm Water Permit. Specifically, Davis Wire does not collect samples from all required sample locations, does not collects samples from required number of storm events, from the first storm event of the year, and/or within the required time frame. *See* 1997 Permit, Section B; 2015 Permit Section X(B).

In addition, Davis Wire fails to analyze samples for all parameters required by the Storm Water Permit. Specifically, the only metals Davis Wire analyzes samples for is aluminum, zinc and iron. Yet, as documented in its own SWPPP numerous toxic metals are used in a variety of industrial operations that occur at the Facility—and throughout the Facility, which operates 7 days a week. Although Davis Metals has never sampled for any metal other than the 3 listed above, it claims that "[g]iven the BMPs that are implemented the potential pollutants identified are not likely to be present in significant quantities in storm water discharges from the facility." *See* 2014 SWPPP, § 4.4. However, Davis Wire has not analyzed storm water samples for pollutants associated with the industrial activities it has identified in its SWPPP to determine that one or more BMPs implemented at the Facility is effective in reducing all pollutants in the discharge. *See* 2015 Permit, Section XI(B)(6)(c).

Davis Wire's failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that it has failed to develop, implement, and/or revise an M&RP that complies with the requirements of Storm Water Permit. Every day that Davis Wire conducts operations in violation of the specific monitoring requirements of the Storm Water Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. Davis Wire has been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least April 26, 2011. These violations are ongoing, and Waterkeeper will include additional violations when information becomes available. Davis Wire is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2011.

E. Failure to Comply with the Storm Water Permit's Reporting Requirements.

Section B(14) of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a

summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13). The 2015 Permit includes the same annual reporting requirement. *See* 2015 Permit, Section XVI.

Davis Wire has failed and continues to fail to submit Annual Reports that comply with these reporting requirements. For example, in each Annual Report since the filing of the 2010-2011 Annual Report, Davis Wire certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources and additional BMPs are not needed; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Waterkeeper indicates that these certifications are erroneous. For example, as discussed above, storm water samples collected from the Facility contain concentrations of pollutants above Benchmark Levels and WQS, thus demonstrating that the SWPPP's BMPs do not adequately address existing potential pollutant sources. Further, the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

In addition, the facility operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. Storm Water Permit, Section C(11)(d). Davis Wire has not reported non-compliance as required.

Information available to Waterkeeper indicates that Davis Wire has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, Davis Wire is in daily violation of the Storm Water Permit. Every day Davis Wire conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). Davis Wire has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least April 26, 2011. These violations are ongoing, the 2015 Permit's annual reporting requirements are as stringent as the 1997 Permit requirements, and Waterkeeper will include additional violations when information becomes available, including specifically violations of the 2015 Permit reporting requirements (*see* 2015 Permit, Sections XII. and XVI.). Davis Wire is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2011.

IV. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the

period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to $37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009.

In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law.

Last, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

V. CONCLUSION

Waterkeeper is willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for Davis Wire's violations of the Storm Water Permit.

If you wish to pursue settlement discussions please contact Waterkeeper's legal counsel:

Drevet Hunt
Lawyers for Clean Water, Inc.
1004A O'Reilly Avenue
San Francisco, California 94129
Tel: (415) 440-6520

Sincerely,

Bruce Reznik
Executive Director
Los Angeles Waterkeeper

SERVICE LIST

VIA U.S. MAIL

Loretta Lynch, Attorney General
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Gina McCarthy
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

Samuel Unger
Executive Officer II
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, California 90013

Exhibit 1

Sampling Data from Davis Wire Facility

Sample Location	Date/Time of Sample Collection	Parameter	Result	Units	Benchmark	Magnitude of Exceedance	CTR	Magnitude of Exceedance
2015/2016 Wet Season								
S.E. corner of parking lot	1/5/16 3:30	Aluminum, Total	2.11	mg/L	0.75	**2.81**		
S.E. corner of parking lot	1/5/16 3:30	Iron, Dissolved	3.92	mg/L	1	**3.92**	1	**3.92**
S.E. corner of parking lot	1/5/16 3:30	Oil and Grease	< 5	mg/L	15			
S.E. corner of parking lot	1/5/16 3:30	Total Suspended Solids (TSS)	48	mg/L	100			
S.E. corner of parking lot	1/5/16 3:30	Zinc, Total	35.9	mg/L	0.11	**326.36**	0.12	**299.17**
S.E. corner of parking lot	1/5/16 3:30	pH	8.1	SU	6.0-9.0			
S.E. corner of parking lot	11/2/15 18:00	Aluminum, Total	2.25	mg/L	0.75	**3.00**		
S.E. corner of parking lot	11/2/15 18:00	Iron, Dissolved	5.38	mg/L	1	**5.38**	1	**5.38**
S.E. corner of parking lot	11/2/15 18:00	Oil and Grease	17	mg/L	15	**1.13**		
S.E. corner of parking lot	11/2/15 18:00	Total Suspended Solids (TSS)	102	mg/L	100	**1.02**		
S.E. corner of parking lot	11/2/15 18:00	Zinc, Total	35.3	mg/L	0.11	**320.91**	0.12	**294.17**
S.E. corner of parking lot	11/2/15 18:00	pH	6	SU	6.0-9.0			
parking lot roof rain gutter	11/2/15 18:00	Aluminum, Total	1.64	mg/L	0.75	**2.19**		
parking lot roof rain gutter	11/2/15 18:00	Iron, Dissolved	11.8	mg/L	1	**11.80**	1	**11.80**
parking lot roof rain gutter	11/2/15 18:00	Oil and Grease	27	mg/L	15	**1.80**		
parking lot roof rain gutter	11/2/15 18:00	Total Suspended Solids (TSS)	108	mg/L	100	**1.08**		
parking lot roof rain gutter	11/2/15 18:00	Zinc, Total	147	mg/L	0.11	**1336.36**	0.12	**1225.00**
parking lot roof rain gutter	11/2/15 18:00	pH	6	SU	6.0-9.0			
SE corner of parking lot near gate	9/15/15 9:30	Aluminum, Total	0.75	mg/L	0.75			
SE corner of parking lot near gate	9/15/15 9:30	Iron, Dissolved	3.69	mg/L	1	**3.69**	1	**3.69**
SE corner of parking lot near gate	9/15/15 9:30	Oil and Grease	5	mg/L	15			
SE corner of parking lot near gate	9/15/15 9:30	Total Suspended Solids (TSS)	23	mg/L	100			
SE corner of parking lot near gate	9/15/15 9:30	Zinc, Total	2.15	mg/L	0.11	**19.55**	0.12	**17.92**
SE corner of parking lot near gate	9/15/15 9:30	pH	7	SU	6.0-9.0			
2014/2015 Wet Season								

Exhibit 1

Sampling Data from Davis Wire Facility

Sample Location	Date/Time of Sample Collection	Parameter	Result	Units	Benchmark	Magnitude of Exceedance	CTR	Magnitude of Exceedance
No samples collected								
2013/2014 Wet Season								
sw corner	12/19/13 15:00	Aluminum, Total	5.65	mg/L	0.75	**7.53**		
sw corner	12/19/13 15:00	Specific Conductance	481	umhos/cm				
sw corner	12/19/13 15:00	Iron, Total	7.8	mg/L	1	**7.80**	1	**7.80**
sw corner	12/19/13 15:00	Total Organic Carbon (TOC)	15	mg/L				
sw corner	12/19/13 15:00	Total Suspended Solids (TSS)	58	mg/L	100			
sw corner	12/19/13 15:00	Zinc, Total	1.76	mg/L	0.11	**16.00**	0.12	**14.67**
sw corner	12/19/13 15:00	pH	6.99	SU	6.0-9.0			
sw corner	11/21/13 15:00	Aluminum, Total	8.31	mg/L	0.75	**11.08**		
sw corner	11/21/13 15:00	Specific Conductance	1120	umhos/cm				
sw corner	11/21/13 15:00	Iron, Total	10.9	mg/L	1	**10.90**	1	**10.90**
sw corner	11/21/13 15:00	Total Organic Carbon (TOC)	55	mg/L				
sw corner	11/21/13 15:00	Total Suspended Solids (TSS)	176	mg/L	100	**1.76**		
sw corner	11/21/13 15:00	Zinc, Total	3.76	mg/L	0.11	**34.18**	0.12	**31.33**
sw corner	11/21/13 15:00	pH	6.79	SU	6.0-9.0			
2012/2013 Wet Season								
SW corner outfall	2/8/13 19:30	Aluminum, Total	9.93	mg/L	0.75	**13.24**		
SW corner outfall	2/8/13 19:30	Specific Conductance	602	umhos/cm				
SW corner outfall	2/8/13 19:30	Total Organic Carbon (TOC)	14	mg/L	15			
SW corner outfall	2/8/13 19:30	Total Suspended Solids (TSS)	238	mg/L	100	**2.38**		

Exhibit 1

Sampling Data from Davis Wire Facility

Sample Location	Date/Time of Sample Collection	Parameter	Result	Units	Benchmark	Magnitude of Exceedance	CTR	Magnitude of Exceedance
SW corner outfall	2/8/13 19:30	Zinc, Total	5.64	mg/L	0.11	**51.27**	0.12	**47.00**
SW corner outfall	2/8/13 19:30	pH	6.47	SU	6.0-9.0			
SW corner outfall	2/8/13 19:30	Chemical Oxygen Demand (COD)	52	mg/L				
SW corner outfall	2/8/13 19:30	Iron	16.9	mg/L	1	**16.90**	1	**16.90**
south west corner at sample location	11/30/12 13:00	Aluminum, Total	0.05	mg/L	0.75			
south west corner at sample location	11/30/12 13:00	Iron, Total	0.09	mg/L	1		1	
south west corner at sample location	11/30/12 13:00	Total Organic Carbon (TOC)	8	mg/L				
south west corner at sample location	11/30/12 13:00	Chemical Oxygen Demand (COD)	94	mg/L	120			
south west corner at sample location	11/30/12 13:00	Specific Conductance	284	umhos/cm				
south west corner at sample location	11/30/12 13:00	Total Suspended Solids (TSS)	854	mg/L	100	**8.54**		
south west corner at sample location	11/30/12 13:00	Zinc, Total	0.06	mg/L	0.11		0.12	
south west corner at sample location	11/30/12 13:00	pH	7.48	SU	6.0-9.0			
2011/2012 Wet Season								
NW outfall	2/27/12 15:00	Aluminum, Total	82.8	mg/L	0.75			
NW outfall	2/27/12 15:00	Chemical Oxygen Demand (COD)	342	mg/L	120	**2.85**		
NW outfall	2/27/12 15:00	Specific Conductance	413	umhos/cm				
NW outfall	2/27/12 15:00	Iron, Total	164	mg/L	1	**164.00**	1	**164.00**
NW outfall	2/27/12 15:00	Total Organic Carbon (TOC)	20	mg/L				

Exhibit 1

Sampling Data from Davis Wire Facility

Sample Location	Date/Time of Sample Collection	Parameter	Result	Units	Benchmark	Magnitude of Exceedance	CTR	Magnitude of Exceedance
NW outfall	2/27/12 15:00	Total Suspended Solids (TSS)	2000	mg/L	100	**20.00**		
NW outfall	2/27/12 15:00	Zinc, Total	7.09	mg/L	0.11	**64.45**	0.12	**59.08**
NW outfall	2/27/12 15:00	pH	8.48	SU	6.0-9.0			

Exhibit 2

Dates of Greater than 0.1 Inches of Rain at Davis Wire Facility

Date	Day of Week	Daily Precip
5/15/11	Su	0.1
5/18/11	W	0.14
10/5/11	W	1.56
11/4/11	F	0.57
11/6/11	Su	0.35
11/20/11	Su	0.67
12/12/11	M	0.68
1/21/12	Sa	0.55
1/23/12	M	0.38
2/11/12	Sa	0.15
2/15/12	W	0.45
2/27/12	M	0.58
3/17/12	Sa	0.96
3/25/12	Su	0.91
3/31/12	Sa	0.19
4/11/12	W	0.72
4/13/12	F	1.51
4/25/12	W	0.18
4/26/12	Th	0.17
10/11/12	Th	0.53
11/8/12	Th	0.15
11/17/12	Sa	0.32
11/29/12	Th	0.12
11/30/12	F	0.45
12/1/12	Sa	0.12
12/2/12	Su	0.38
12/3/12	M	0.28
12/12/12	W	0.29
12/13/12	Th	0.27
12/18/12	T	0.52
12/24/12	M	0.44
12/26/12	W	0.27
12/29/12	Sa	0.21
1/24/13	Th	0.77
1/25/13	F	0.23
2/8/13	F	0.12
2/19/13	T	0.41
3/8/13	F	0.45
5/6/13	M	0.5
5/9/13	Th	0.13
11/21/13	Th	0.56

Exhibit 2

Dates of Greater than 0.1 Inches of Rain at Davis Wire Facility

Date	Day of Week	Daily Precip
11/29/13	F	0.11
12/19/13	Th	0.36
2/6/14	Th	0.16
2/27/14	Th	0.43
2/28/14	F	2.35
3/1/14	Sa	0.89
4/25/14	F	0.26
10/31/14	F	0.15
11/1/14	Sa	0.45
11/30/14	Su	0.19
12/2/14	T	1.51
12/3/14	W	0.53
12/12/14	F	1.81
12/16/14	T	0.21
12/17/14	W	0.21
12/30/14	T	0.2
1/10/15	Sa	0.12
1/11/15	Su	0.4
1/26/15	M	0.18
2/22/15	Su	0.74
2/23/15	M	0.44
3/2/15	M	0.26
4/7/15	T	0.24
4/25/15	Sa	0.17
5/8/15	F	0.14
5/14/15	Th	0.57
7/18/15	Sa	0.3
7/19/15	Su	0.96
9/15/15	T	1.35
10/4/15	Su	0.23
11/3/15	T	0.32
12/10/15	Th	0.12
12/13/15	Su	0.3
12/19/15	Sa	0.11
12/22/15	T	0.19
1/5/16	T	2.47
1/6/16	W	1.19
1/7/16	Th	0.27
1/31/16	Su	0.66
2/17/16	W	0.47
2/18/16	Th	0.19

Exhibit 2

Dates of Greater than 0.1 Inches of Rain at Davis Wire Facility

Date	Day of Week	Daily Precip
3/6/16	Su	1.07
3/7/16	M	0.5
3/11/16	F	0.56
4/9/16	Sa	0.45